

No. 11694-4Lab-77/29353.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Pratibha Ceremics Private Limited, Sector-24, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA FARIDABAD

Reference No. 82 of 1977

*between*

SHRI MATA PARSHAD WORKMAN, AND THE MANAGEMENT OF M/S PRATIBHA  
CEREMICS PRIVATE LIMITED, SECTOR-24, FARIDABAD.

Nemo for the workman.

Shri W. C. Sharma, for the management.

**AWARD**

By order No. ID/FD/1039-H-77/23887, dated 21st June, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Pratibha Ceremics Private Limited, Sector-24, Faridabad and its workman Shri Mata Parshad, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Mata Parshad was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared. The workman filed his statement of claim. At this stage the management stated that the matter stands resolved. They produced a settlement marked 'A' and a photostat copy of receipt witnessing payment to the workman concerned marked 'B'. I am satisfied that the workman has given up his dispute and received a sum of Rs 958—40 in full and final settlement of his claim and has given up his claim of reinstatement and reemployment.

Neither the workman nor his representative appeared today to admit or deny the settlement inspite of three adjournments obtained by him to admit or deny the settlement. Finally he absented. I, therefore, give my award as follows :—

That the termination of services of Shri Mata Parshad is justified and in order in view of the consideration that he has received from the management as per the settlement. He is not entitled to any other relief.

NATHU RAM SHARMA,

Dated, the 31st October, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 1038, dated 31st October, 1977.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

✓ Dated, the 31st October, 1977.

NATHU RAM SHARMA,

Presiding Officer  
Industrial Tribunal, Haryana,  
Faridabad.

No. 11696-4Lab-77/29357.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s. D. L. F. Housing Construction Pvt. Ltd., Sector-11 Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 13 of 1977

between

SHRI DES RAJ SHARMA, WORKMAN AND THE MANAGEMENT OF M/S D. L. F. HUOSING  
CONSTRUCTION PVT. LTD., SECTOR-11, FARIDABAD.

Present.—

Shri Des Raj Sharma, concerned workman.

Shri R. C. Sharma, for the management.

#### AWARD

By order No. ID/2020 dated 18th January, 1977, the Governor of Haryana referred the following dispute between the management of M/s D. L. F. Housing Construction Private Ltd., Sector 11, Faridabad and its workman Shri Des Raj Sharma, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Des Raj Sharma was justified and in order ?  
If not, to what relief is he entitled ?

On receipt of the order of reference notices were given to the parties. The parties put in their pleadings. At that stage, the parties stated that a compromise has been arrived at between them. The statements of the parties were recorded. The representative of the management stated that the management has agreed to pay a sum of Rs. 2000 in all including retrenchment compensation, one month's pay, Gratuity earned leave etc. to the workman concerned and the workman concerned agreed to give up the dispute in consideration thereof. On 20th October, 1977 the management paid a sum of Rs. 2000 only,—vide Cheque No. 053110 dated 17th October, 1977 in payee account drawn on Mercantile Bank, New Delhi and the workman gave up his dispute and stated that his claim whatsoever has been satisfied, I, therefore, give my award as follows :—

"That the workman concerned had received a sum of Rs. 2000 only,—vide Bank Cheque and give up his dispute. In view of this, the termination of services of Shri Des Raj Sharma, is justified and in order. He is not entitled to any relief.

Dated the 27th October, 1977.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 1045, dated the 31st October, 1977.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 31st October, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 11596-4Lab-77/29359.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is Pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workmen and the management of M/s Bhai Sinder Dass and Sons Company Private Ltd., Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL  
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 51 of 1977

between

THE WORKMEN AND THE MANAGEMENT OF M/S BHAI SUNDER DASS  
AND SONS COMPANY PRIVATE LIMITED, MATHURA ROAD, FARIDABAD

Present.—

Shri Darchan Singh, for the workmen.

Nemo, for the management.

## AWARD

By order No. ID/FD/40-C-77/19734, dated the 19th May, 1977 the Governor of Haryana, referred the following dispute between the management of M/s., Bhai Sunder Dass and sons Company Private Limited, Mathura Road, Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the deduction of wages made from the salaries of the workmen for the period from 15th November, 1976 to 18th November, 1976 is justified and in order? If not, to what relief are they entitled.

On receipt of the order of reference, notices were given to the parties. The parties appeared. The workmen filed their claim statement and the case was fixed for filing written statement by the management. At this stage the management presented a settlement alleged to have been arrived at between the parties. Today the representative for the workmen has admitted the settlement. Although the settlement is a package deal deciding this reference No. 14 of 1977. Award has been given in that other reference No. 11 of 1977. I have gone through the settlement. It is fair and reasonable and is in the interest of workmen. I, therefore, give my award on the basis of the settlement. It has been settled that the Labour-Cum-Conciliation Officer, Ballabgarh shall call upon the parties and shall conciliate the dispute and the settlement arrived at through the intervention of the Conciliation Officer shall be binding on the parties. The management shall not take any disciplinary action against any of the workmen working in their factory nor shall harass all or any one of them for trade union activities and the workmen or their part shall bear goodwill towards the management and shall co-operate to augment the production of the management.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 31st October, 1977.

No. 1037, dated the 31st October, 1977.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 31st October, 1977.

The 28th September, 1977

No. 10223-4Lab-77/26939.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana Faridabad, in respect of the dispute between the workman and the management of M/s. Frick India, Ltd., Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 41 of 1974

between

SHRI MOTI LAL, WORKMAN AND THE MANAGEMENT OF M/S FRICK  
INDIA LTD., FARIDABAD

Present:

Shri Darshan Singh, for the workman.

Shri S.L. Gupta, for the management.

## AWARD

By order No. ID/FD/458/7938, dated 26th March, 1974, the Governor of Haryana, referred the following dispute between the management of M/s. Frick India Limited, Faridabad and its workman Shri Moti Lal to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Moti Lal was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. The parties appeared and put in their pleadings. On the pleadings of the parties the following issues were framed by my learned Predecessor on the 26th August, 1975. —

- (1) Whether the demand was raised on the management and rejected by it prior to the initiation of the conciliation proceeding ?
- (2) Whether the name of the workman was removed from the rolls of the respondent company, consequent on the absence from duty of the workman in a manner as stated in the written reply ?
- (3) In case of proof of issue No. 2, whether the action of the management constitute an industrial dispute within the meaning of section 2—A Industrial Dispute Act, 1947 ?
- (4) Whether the order of termination of services/dismissal of the workman was justified and in order ? If not, to what relief is he entitled ?

The case was fixed for evidence on issue No. 1. Then my learned predecessor decided issue No. 1 against the management and fixed the case for the evidence of the management. The management then examined Col. Kalyan Singh, their Manager as M.W. 1 who stated that the workman had applied for grant of leave for the period from 28th May, 1973 to 3rd June, 1973 which was sanctioned. He thereafter sent a Medical Certificate dated 4th June, 1973, producing its copy Exhibit M-3 but the workman concerned did not send any application together therewith for extension of leave. But even then the management extended his leave upto 25th June, 1973. He further stated that he did not receive any application, thereafter for extension of leave or any medical certificate. The management then called upon the workman to report for duty vide their notice dated the 5th July, 1973, copy whereof is Ex. M-4. The notice was sent to the workman concerned by post. He proved it by its entry at serial No. 2 of the 6th July, 1973, when the management did not hear from the workman, they struck off his name from the rolls of their employees and sent that information to the workman concerned under registered post on both addresses. The letter was received back undelivered. He tendered in evidence the printed copy of standing order Ex. M-9 and a copy of the conciliation proceeding Ex. M-8. In cross examination he stated that some letters sent to the workman were signed by him and some by personal officer. He stated that the letters received by them are entered in their receipt register. He further stated that after the return of registered letter Ex. M-5 and M-6 they did not send any other letter to the workman concerned informing him of the action taken by them and closed their case.

The workman examined himself as W. W. 1 who stated that he fell ill and sent application on 5th June, 1973. He tendered in evidence his fitness certificate Ex. W-2 dated the 17th July, 1973. The workman also produced a certificate of sickness Ex. W-3 dated the 25th June, 1973 which reads treatment period as the 26th June, 1973 to 16th July, 1973. He also produced a postal receipt Ex. W-1 which bears the seal of the post office. In this seal the date described is 5th June, 1973. The workman then closed his case.

Then the case was fixed for argument of the parties. Arguments were heard. I have considered entire evidence of the parties oral as well as documentary. My findings issuewise are follows :—

*Issue No. 1.* Issue No. 1 decided by my learned predecessor against the management on the 11 November, 1975.

*Issue No. 2.* The medical certificate Ex. W-3 and fitness certificate Ex. W-2 seem to be original. They bear the seal of doctor. It seems that they have not been sent to the management. The management was right to extend his leave even upto 25th June, 1973 although the workman had sent only a medical certificate and not application for extension of leave but that did not matter as the intension could be gathered from the receipt of the medical certificate that the workman required extension of leave but after that I do not find any cogent evidence that the workman concerned either applied for extension of leave hereafter or sent any medical certificate covering the period after the 25th June, 1973. I also perused the sickness certificate Ex. W-3 and fitness certificate Ex. W-2, they are proved by the testimony of the doctor issuing them. The Doctor issuing the certificate has not been examined as witness by the workman concerned. These certificates are on simple paper written in hand bearing only a stamp of the doctor. Any way even it is not proved that they were sent to the management, what else the management could do when after the 25th June, 1973 neither any application for extension of leave was sent to them nor any medical certificate covering this period was sent to them just after the 25th June, 1973. Then the management waited for about 11 days and then issued notice the 5th July, 1973. I have compared a address on the registered postal envelop with the address given by the workman concerned in the letter of appointment, Ex. M-5 is quite correct to the local address given by the workman concerned in Ex. M-1 letter of appointment. In the address on Ex. M-6 although there is a little difference, the village on the letter of appointment has been shown "Sunera" whereas on registered cover Ex. M-6, it has been shown as "Sunera". In letter of appointment the post office has been shown under permanent address as

"Basipur" and on registered postal cover Ex. M-6, it has been shown as "Rajipur" although in the spelling of village there is a little difference of an Alfabet writing "E" for "O" and in the name of post office there is a little difference of writing 'J' for 'S' but it did not matter. District has been shown the same in the letter of appointment and on the registered postal cover. This difference in permanent address is not of any significance because the postal authority have not reported that there was no such post office nor such village with the spelling on the registered postal cover Ex. M-6. This letter also reached the intended village as the postman has given an endorsement that no person with that name was found and then returned the registered postal cover. Moreover it does not matter because the Ex. M-5 and M-6 are the order of action having been taken by the management. The simple matter for consideration is whether the workmen concerned applied for extension of leave after the 25th June, 1973 covering the period of upto the 16th July, 1973 and sent sickness certificate for that period the management. It is not proved and therefore the management was not wrong in taking action after waiting a long time during which the workman remained absent. The workman, as per statement of claim presented himself for duty on the 17th July, 1973. He was absent from 26th June, 1973 to 16th July, 1973 which was a period of about 20 days. For not hearing anything from the workman for these 20 days the management were right in taking the action of removing his name from the rolls. In these circumstances the management was not wrong in treating the workman concerned absent for 21st days. Even the workman himself has stated as follows :—

"I tender in evidence my fitness certificate dated 17th July, 1973 Ex. W—2."

Which means that this was not produced to the management. The workman stated that he again applied for extension of leave after 25th June, 1973 but did not prove any such application, even its copy has not been produced. In cross examination, he stated that he sent this application by ordinary post. Whereas he himself has sent first application for extension of leave dated 5th June, 1973 by registered post and the postal receipt reads 5th June, 1973. The workman again stated in cross examination that he wanted to submit certificate Ex. W—2 and W—3 before the management only on 18th July, 1973 at the time of his reporting for duty. The workman further admitted in cross examination that he did not send any certificate to the management with any of his applications for extension of leave. He further admitted in cross examination that the Medical Officer prepared both the certificates Ex. W-2 and W-3 on 17th July, 1973. The workman concerned further admitted that he did not send any application for extension of leave together with the certificate on 25th June, 1973. It is quite clear that the workman concerned procured these unproved certificates on 17th July, 1973 when he intended to appear for duty. I, therefore, am of the

opinion that the management correctly removed the name of the workman concerned from their rolls and therefore, I decide issue No. 2 against the workman concerned and in favour of the management.

*Issue No. 3.*—Even if issue No. 2 is proved in favour of the management, the reference relates to termination of services of the workman concerned. It does not matter that the management removed the name of the workman concerned from their rolls on account of his unauthorised absence for 21 days, the result was that the services of the workman concerned come to an end. Therefore, I hold that the reference contains an industrial dispute within section 2-A of the Industrial Disputes Act.

*Issue No. 4.* As per my above details and discussions I decide this issue in favour of the management because in the circumstances described above, it was the workman whose name was struck off the rolls due to his unauthorised absence. The management did not terminate his services.

I, therefore, give my award as follows :—

That the workman's name was struck off the rolls due to his unauthorised long absence rightly and legally and he is not entitled to any relief.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 9th September, 1977.

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No. 879, dated the 19th September, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 19th September, 1977.

G. V. GUPTA, Secy.